

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

v.

NICOLE PETERSON,

Defendant.

**8:19CR237**

**ORDER**

This matter is before the Court on defendant Nicole Peterson’s (“Peterson”) pro se Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Filing No. 253). On November 22, 2021, Peterson pleaded guilty to conspiracy to distribute and possession with intent to distribute methamphetamine (Filing No. 163). In her plea agreement, Peterson waived “any and all rights to appeal” and “all rights to contest [her] conviction and sentence in any post-conviction proceedings,” except related to claims “based on ineffective assistance of counsel.” Peterson is currently serving a prison term of 120 months followed by 5 years of supervised release.

Peterson filed the instant motion on May 22, 2023, raising an ineffective-assistance-of-counsel claim. She argues her counsel “failed to file a notice of appeal after sentencing when one was requested,” “failed to challenge the amount and purity of the methamphetamine,” “failed to argue the defendant’s ‘position’ in the conspiracy,” and “failed to communicate with the defendant about downward departures, mandatory minimum sentencing and mental health departures when several attempts were made by calling the office, sending e-mails and letters.”

Rule 4(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts requires the Court to complete an initial review of Peterson’s § 2255 motion. Unless “it plainly appears from the motion, any attached exhibits, and the record

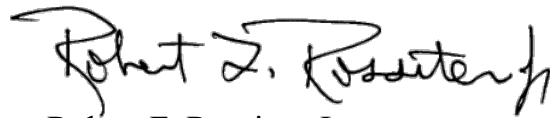
of prior proceedings that the moving party is not entitled to relief,” the Court must order the United States Attorney to respond to the motion or “take other action the judge may order.” *Id.*

After initial review, the Court finds summary dismissal is not appropriate. The United States Attorney must file an answer or other response to Peterson’s motion on or before July 3, 2023.

IT IS SO ORDERED.

Dated this 31st day of May 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
Chief United States District Judge